

2024 Regular Session Laws

Possible Modifications to the Sentencing Guidelines and Commentary

May 30, 2024

After each session, the Commission reviews “crime[s] created or amended by the legislature in the preceding session” for possible related modifications to the Sentencing Guidelines. In accordance with Minn. Stat. § 244.09, subd. 11, the Commission may make such modifications without advance submission to the Legislature. This paper reviews crime laws created or amended in the 2024 Regular Session that the Commission should review for ranking and other decisions.

Unless the Commission specifies otherwise, it is understood that any modifications adopted by the Commission on June 6, 2024, will be subject to a public hearing on July 18 and to the Commission’s final action on July 25, 2024. It is also understood that, unless otherwise specified, the effective date of all modifications is August 1, 2024, to apply as provided in Guidelines section 3.G.

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This document was prepared by the staff of the Minnesota Sentencing Guidelines Commission for the Commission’s review. This document has not been adopted by the Commission and does not necessarily represent its views.

Assigning Severity-Level Rankings (In General)

One of the responsibilities of the Commission is to assign severity-level rankings to new offenses and to consider whether they should be added to the Guidelines' offense lists (*e.g.*, offenses eligible for permissive consecutive sentences and severe violent offenses). The Commission bases its decisions, in part, on the level of harm typically caused by the offense and the typical culpability of the defendant. Other considerations are the statutory maximum penalties and how similar offenses are ranked. An alternative to ranking is leaving the offense unranked and allowing the court to assign a severity level on a case-by-case basis. Unranked offenses typically are: 1) Rarely prosecuted; 2) Cover a wide range of underlying conduct; 3) Are new and the severity of a typical offense cannot yet be determined.¹

For new and amended offenses listed below, the Commission may decide:

1. What severity level (SL) should be assigned?
2. Should the offense be added to the list of Offenses Eligible for Permissive Consecutive Sentences (section 6)?
3. Should the offense be added to the list of Severe Violent Offenses (section 8)?
4. Are there other modifications that must be made to the Guidelines?

A. Ranking Newly Created or Amended Offenses

Below are newly created or amended felony offenses that must be considered.

1. Transferring Firearm to Ineligible Person – amended and new felonies

[2024 Minn. Laws ch. 127, art. 36, § 3.](#)

Description: The law amends Minn. Stat. section 624.7141 (Transfer to Ineligible Person) by altering the criminal elements and increasing penalties for transferring certain firearms to persons who are ineligible to possess firearms. Amendments were made to subdivisions 1 and 2.

The amendments to subdivision 1 elevate the existing gross misdemeanor a felony, with a statutory maximum of two years' imprisonment and a \$10,000 fine. The amendments also expand the existing offense in two ways:

- While the current offense is limited to the transfer of a pistol or semiautomatic military-style assault weapon, the act expands the offense to encompass the transfer of any firearm.
- While the current offense requires the defendant to know that the transferee was ineligible to possess the firearm, the act relaxes the knowledge requirement to include defendants who did not know, but reasonably should have known, of the transferee's ineligibility.

¹ Comment 2.A.04. 2022 Minn. Sentencing Guidelines and Commentary at https://mn.gov/sentencing-guidelines/assets/1August2022MinnSentencingGuidelinesCommentary_tcm30-536102.pdf.

The act also amends subdivision 2, which now provides an enhanced felony penalty if, within one year after the defendant illegally transfers the firearm, the transferee (not the defendant) possesses or uses the firearm in furtherance of a felony crime of violence. The act specifies that the statutory maximum penalty, now unspecified, is five years' imprisonment and a \$20,000 fine. The act also changes the offense title from "felony offense" to "aggravated offense."

A new subdivision 4 supplies an affirmative defense for transferors who acted under compulsion by the transferee, who created a reasonable apprehension in the mind of the transferor that refusal would result in substantial bodily harm or death to the transferor.

Effective date: August 1, 2024, and applies to crimes committed on or after that date.

References: Minn. Stat. §§ [624.7141](#); [609.67](#) (2022).

Long-Term Fiscal Impact (SF 5153-1E & HF 2609-1UE): Negligible.

Demographic Impact (SF 5153-1E & HF 2609-1UE): Not applicable.

Sentencing Guidelines Considerations:

- The Commission must consider assigning a SL ranking to the new felony offense under subdivision 1, which has a statutory maximum of two years.
- The existing felony offense, "Transfer Pistol to Ineligible Person" in subd. 2, is presently assigned a severity level (SL) ranking of 2 (section 5). The existing statutory maximum penalty is the default felony maximum penalty of five years' imprisonment, a \$10,000 fine, or both, per Minn. Stat. § 609.03(1)—quite similar to the new 5-year, \$20,000 statutory maximum penalty. The offense is not on the eligible list for permissive consecutive sentencing (section 6) or on the severe violent offense list (section 8).

Staff Recommendation:

- Rank the new felony firearms-transfer offense in subd. 1 (with a statutory maximum of 2 years) at SL 1, where it is proportionally ranked lower than the existing, aggravated offense, and where it is a presumptive commitment offense at a criminal history score of 6 or more.
- Continue to rank the aggravated offense at SL 2, because there were no changes to the elements in a way that increase the perpetrator's culpability nor increases to the statutory maximum penalty; change "pistol" to "firearm" in the offense title; add a parenthetical "aggravated" after the title; change "transfer" to "transferring" to match the prevailing style of using nouns for offense names; and strike a comma in section 5.B to match the prevailing style.

These recommendations, as applied to the Sentencing Guidelines, are shown below.

Possible modifications to 2023 Minn. Sentencing Guidelines & Commentary, Section 5, as follows:

* * *

5.A. Offense Severity Reference Table

Offenses subject to a mandatory life sentence, including first-degree murder and certain sex offenses under Minn. Stat. § 609.3455, subdivision 2, are excluded from the Guidelines by law.

* * *

Severity Level	Offense Title	Statute Number
2	* * *	
	Transfer Pistol <u>Transferring Firearm</u> to Ineligible Person (<u>Aggravated</u>)	624.7141, subd. 2
1	* * *	
	<u>Transferring Firearm to Ineligible Person</u>	<u>624.7141, subd. 1</u>
	* * *	

5.B. Severity Level by Statutory Citation

Offenses subject to a mandatory life sentence, including first-degree murder and certain sex offenses under Minn. Stat. § 609.3455, subdivision 2, are excluded from the Guidelines by law.

Statute Number	Offense Title	Severity Level
* * *		
<u>624.7141 subd. 1</u>	<u>Transferring Firearm to Ineligible Person</u>	<u>1</u>
624.7141, subd. 2	Transfer Pistol <u>Transferring Firearm</u> to Ineligible Person (<u>Aggravated</u>)	2
* * *		

2. Publishing Personal Information of Judicial Official (Bodily Harm) – new felony

[2024 Minn. Laws ch. 123, art. 12 § 4.](#)

Description: The act establishes a misdemeanor, codified at Minn. Stat. § 609.476, for knowingly publishing, with the intent to threaten, intimidate, harass, or physically injure, the personal information of a judicial official. “Personal information,” as defined elsewhere, includes addresses of judicial officials and family members, judicial officials’ personal emails, and children’s names and schools, unless such information is publicly available. Under subdivision 3, a violation becomes a felony if it causes bodily harm.

Effective date: August 1, 2024, and applies to crimes committed on or after that date.

References: Minn. Stat. §§ [609.03](#); [609.749](#) (2022).

Long-Term Fiscal Impact (HF 4326-0): Negligible.

Demographic Impact (HF 4326-0): Not applicable.

Sentencing Guidelines Considerations: Because no statutory maximum is specified for the new felony offense, the five-year default statutory maximum (Minn. Stat. § 609.03, punishment when not otherwise fixed) applies.

A similar offense under Minn. Stat. § 609.749, subd. 3(a)(4) (“judicial harassment”), prohibits harassment with intent to influence or tamper with a juror or judicial proceeding, or with intent to retaliate against a judicial officer, prosecutor, defense attorney, or officer of the court, because of that person’s performance of duty in connection with a judicial proceeding. The offense of judicial harassment carries a five-year statutory maximum penalty and is ranked at SL 4 (section 5). All harassment under Minn. Stat. § 609.749, subd. 3(a) is eligible for permissive consecutive sentencing (section 6).

Staff Recommendation: Rank the new felony offense at SL 4 because judicial harassment is ranked at SL 4. Because this offense requires an intent to threaten, intimidate, harass, or physically injure, and because this offense must result in bodily harm, add the new offense to the permissive-consecutive list in section 6, which has historically been a list of crimes against persons.

These recommendations, as applied to the Sentencing Guidelines, are shown below.

Possible modifications to 2023 Minn. Sentencing Guidelines & Commentary, Sections 5 & 6, as follows:

* * *

5.A. Offense Severity Reference Table

Offenses subject to a mandatory life sentence, including first-degree murder and certain sex offenses under Minn. Stat. § 609.3455, subdivision 2, are excluded from the Guidelines by law.

* * *

Severity Level	Offense Title	Statute Number
4	* * *	
	<u>Publishing Personal Information of Judicial Official (Bodily Harm)</u>	<u>609.476, subd. 3</u>
	* * *	

5.B. Severity Level by Statutory Citation

Offenses subject to a mandatory life sentence, including first-degree murder and certain sex offenses under Minn. Stat. § 609.3455, subdivision 2, are excluded from the Guidelines by law.

Statute Number	Offense Title	Severity Level
* * *		
<u>609.476 subd. 3</u>	<u>Publishing Personal Information of Judicial Official (Bodily Harm)</u>	<u>4</u>
* * *		

6. Offenses Eligible for Permissive Consecutive Sentences

- A.** Convictions for attempted offenses or conspiracies to commit offenses listed below are eligible for permissive consecutive sentences as well as convictions for completed offenses.
- B.** Under section 2.F.2.a(1)(i), it is permissive for a current felony conviction to run consecutively to a prior felony sentence from a jurisdiction other than Minnesota if the non-Minnesota conviction is for a crime that is equivalent to a crime listed below.

Statute Number	Offense Title
152.021, subd. 2a	Manufacture any Amount of Methamphetamine
152.021, subd. 2b(2) with ref. to 152.01, subd. 24(8)	Aggravated Controlled Substance Crime 1st Degree, Sale to a Minor or Vulnerable Adult
152.022, subd. 1(6)	Sells Cocaine/Narcotic to Minor/Employs Minor
152.023, subd. 1(3)	Sells Sch. I,II,III to Minor (not Narcotic)
152.023, subd. 1(4)	Sells Sch. I,II,III Employs Minor (not Narcotic)
152.024, subd. 1(2)	Schedule IV or V to Minor
152.024, subd. 1(3)	Employs Minor to Sell Schedule IV or V
152.0261, subd. 1a	Employing a Minor to Import Controlled Substances
152.137	Methamphetamine Crimes Involving Children or Vulnerable Adults
169.09, subd. 14(a)(1)	Accidents (Death)
169.09, subd. 14(a)(2)	Accidents (Great Bodily Harm)
169A.24	DWI 1st Degree
243.166, subd. 5(b)	Registration of Predatory Offenders

Statute Number	Offense Title
243.166, subd. 5(c)	Registration of Predatory Offenders (2nd or subsequent)
518B.01, subd. 14(d)	Violation of an Order for Protection
609.185	Murder 1st Degree
609.19	Murder 2nd Degree
609.195	Murder 3rd Degree
609.20	Manslaughter 1st Degree
609.205	Manslaughter 2nd Degree
609.2112, subd. 1	Criminal Vehicular Homicide (Death)
609.2113, subd. 1	Criminal Vehicular Operation (Great Bodily Harm)
609.2113, subd. 2	Criminal Vehicular Operation (Substantial Bodily Harm)
609.2114, subd. 1	Criminal Vehicular Operation (Death to an Unborn Child)
609.2114, subd. 2	Criminal Vehicular Operation (Injury to an Unborn Child)
609.215	Aiding Suicide
609.221	Assault 1st Degree
609.222	Assault 2nd Degree - Dangerous Weapon
609.223	Assault 3rd Degree
609.2231	Assault 4th Degree
609.224, subd. 4	Assault 5th Degree (3rd or Subsequent Violation)
609.2241	Knowing Transfer of Communicable Disease
609.2242, subd. 4	Domestic Assault
609.2245	Female Genital Mutilation
609.2247	Domestic Assault by Strangulation
609.228	Great Bodily Harm Caused by Distribution of Drugs
609.229, subd. 3	Crime Committed for Benefit of Gang
609.2325, subd. 3(1)	Criminal Abuse of Vulnerable Adult (Death)
609.2325, subd. 3(2)	Criminal Abuse of Vulnerable Adult (Great Bodily Harm)
609.2325, subd. 3(3)	Criminal Abuse of Vulnerable Adult (Substantial Bodily Harm)
609.233, subd. 3	Deprivation of Vulnerable Adult
609.235	Use of Drugs to Injure or Facilitate Crime
609.24	Simple Robbery

Statute Number	Offense Title
609.245, subd. 1	Aggravated Robbery 1st Degree
609.245, subd. 2	Aggravated Robbery 2nd Degree
609.247	Carjacking
609.25	Kidnapping
609.255	False Imprisonment
609.2661	Consp./At. Murder of Unborn Child 1st Degree
609.2662	Murder of an Unborn Child 2nd Degree
609.2663	Murder of an Unborn Child 3rd Degree
609.2664	Manslaughter of an Unborn Child 1st Degree
609.2665	Manslaughter of an Unborn Child 2nd Degree
609.267	Assault of an Unborn Child 1st Degree
609.2671	Assault of an Unborn Child 2nd Degree
609.268	Death or Injury of an Unborn Child in Comm. of Crime
609.282	Labor Trafficking
609.322, subd. 1(a)	Sex Trafficking 1st Degree
609.322, subd. 1(a) with ref. to subd. 1(b)	Aggravated Sex Trafficking 1st Degree
609.322, subd. 1a	Sex Trafficking 2nd Degree
609.322, subd. 1a with ref. to subd. 1(b)	Aggravated Sex Trafficking 2nd Degree
609.324, subd. 1(a)	Engage or Hire a Minor to Engage in Prostitution
609.324, subd. 1(b)	Engage or Hire a Minor to Engage in Prostitution
609.324, subd. 1(c)	Engage or Hire a Minor to Engage in Prostitution
609.342	Criminal Sexual Conduct 1st Degree
609.343	Criminal Sexual Conduct 2nd Degree
609.344	Criminal Sexual Conduct 3rd Degree
609.345	Criminal Sexual Conduct 4th Degree
609.3451	Criminal Sexual Conduct 5th Degree
609.3453	Criminal Sexual Predatory Conduct
609.3458	Sexual Extortion

Statute Number	Offense Title
609.352, subd. 2	Solicitation of Children to Engage in Sexual Conduct
609.352, subd. 2a	Solicitation of Children to Engage in Sexual Conduct (Internet or Computer)
609.365	Incest
609.377	Malicious Punishment of Child
609.3775	Child Torture
609.378	Child Neglect/Endangerment
<u>609.476, subd. 3</u>	<u>Publishing Personal Information of Judicial Official (Bodily Harm)</u>
609.485, subd. 4(a)(3)	Escape with Violence from GM or Misd. Offense
609.485, subd. 4(b)	Escape with Violence from Felony Offense
609.487, subd. 3	Fleeing Peace Officer
609.487, subd. 4(a)	Fleeing Peace Officer (Resulting in Death)
609.487, subd. 4(b)	Fleeing Peace Officer (Great Bodily Harm)
609.487, subd. 4(c)	Fleeing Peace Officer (Substantial Bodily Harm)
609.498, subd. 1a	Tampering with a Witness in the 1st Degree
609.498, subd. 1b	Tampering with a Witness, Aggravated 1st Degree
609.502, subd. 1(1)	Interference with a Dead Body or Scene of Death
609.527	Identity Theft
609.561	Arson in the 1st Degree
609.5641, subd. 1a(b)	Wildfire Arson (Damage over Five Dwellings, Burns 500 Acres or More, or Crops in Excess of \$100,000)
609.5641, subd. 1a(c)	Wildfire Arson (Damage over 100 Dwellings, Burns 1,500 Acres or More, or Crops in Excess of \$250,000)
609.5641, subd. 1a(d)	Wildfire Arson (Demonstrable Bodily Harm)
609.582, subd. 1(a)	Burglary 1st Degree - of Occupied Dwelling
609.582, subd. 1(b)	Burglary 1st Degree with Dangerous Weapon
609.582, subd. 1(c)	Burglary 1st Degree with Assault
609.582, subd. 2(a)(1)	Burglary 2nd Degree – Dwelling
609.582, subd. 2(a)(2)	Burglary 2nd Degree – Bank
609.591, subd. 3(1)	Hinder Logging (Great Bodily Harm)
609.594, subd. 2	Damage to Property - Critical Public Service Facilities

Statute Number	Offense Title
609.66, subd. 1e	Drive-By Shooting
609.662, subd. 2(b)(1)	Duty to Render Aid (Death or Great Bodily Harm)
609.662, subd. 2(b)(2)	Duty to Render Aid (Substantial Bodily Harm)
609.671	Hazardous Wastes
609.687, subd. 3(1)	Adulteration Resulting in Death
609.687, subd. 3(2)	Adulteration Resulting in Bodily Harm
609.71, subd. 1	Riot 1st Degree
609.712	Real/Simulated Weapons of Mass Destruction
609.713, subd. 1	Threats of Violence (Terror/Evacuation)
609.713, subd. 2	Threats of Violence (Bomb Threat)
609.713, subd. 3(a)	Threats of Violence (Replica Firearm)
609.714, subd. 2	Crimes Committed in Furtherance of Terrorism
609.746, subd. 1(h)	Surreptitious Observation Device (Minor Victim and Sexual Intent)
609.746, subd. 1(j)	Surreptitious Photography Under or Around Clothing (3rd or Subsequent Violation)
609.748, subd. 6(d)	Violation of Harassment Restraining Order
609.749, subd. 3	Harassment (Aggravated Violations)
609.749, subd. 4	Harassment (Subsequent Violations)
609.749, subd. 5	Stalking
609.78, subd. 2a	Fictitious Emergency Call (Substantial Bodily Harm, Great Bodily Harm, or Death)
609.78, subd. 2b(2)	Emergency Telephone Calls and Communications (Blocks, Interferes, Prevents Using Multiple Communication Devices or Electronic Means)
609.855, subd. 2(c)(1)	Interference with Transit Operator
609.855, subd. 5	Discharge Firearm at Occupied Transit Vehicle/Facility
617.23, subd. 3	Indecent Exposure
617.246, subd. 2(a), 3(a), 4(a)	Use of Minors in Sexual Performance
617.246, subd. 2(b), 3(b), 4(b)	Use of Minors in Sexual Performance (Subsequent, by Predatory Offender, or Child Under 14)
617.247, subd. 3(a)	Dissemination of Child Pornography

Statute Number	Offense Title
617.247, subd. 3(b)	Dissemination of Child Pornography (Subsequent, by Predatory Offender, or Child Under 14)
617.247, subd. 4(a)	Possession of Child Pornography
617.247, subd. 4(b)	Possession of Child Pornography (Subsequent, by Predatory Offender, or Child Under 14)
617.261, subd. 2(b)	Nonconsensual Dissemination of Private Sexual Images
617.262, subd. 3(b)	Nonconsensual Dissemination of a Deep Fake Depicting Intimate Parts or Sexual Acts
624.732, subd. 2	Intentional Release of Harmful Substance
624.7191	Metal Penetrating Bullets
629.75, subd. 2(d)	Violation of a Domestic Abuse No Contact Order

* * *

3. Fictitious Emergency Call (Response to Home of Official) – new felony

Act: [2024 Minn. Laws ch. 123, art. 6 § 17](#).

Description: Minn. Stat. § 609.78, subd. 2(2), presently outlaws placing an emergency call and reporting a fictitious emergency with the intent of prompting an emergency police, fire, or medical response (“swatting”). Swatting is a gross misdemeanor unless substantial bodily harm, great bodily harm, or death results, in which case it is a felony under subd. 2a.

The law creates a new penalty provision, subd. 2c, which defines a felony form of swatting carrying a maximum penalty of one year imprisonment and a \$5,000 fine, if the site of the intended emergency response is the home of an elected official, judge, prosecutor, correctional-facility employee, or peace officer.

Effective date: August 1, 2024, and applies to crimes committed on or after that date.

References: Minn. Stat. § [609.78](#) (2022).

Long-Term Fiscal Impact (HF 3757-0): One prison bed every five years.

Demographic Impact (HF 3757-0): Not applicable.

Sentencing Guidelines Considerations: As stated above, swatting is a now gross misdemeanor unless substantial bodily harm, great bodily harm, or death results, in which case it is a felony under subd. 2a.

- Swatting resulting in great bodily harm or death is assigned SL 8; carries a statutory maximum of imprisonment of not more than 10 years or to payment of a fine of not more than \$20,000, or both;

is on the list eligible for permissive consecutive sentencing (section 6); and is not on the list of severe violent offenses (section 8).

- Swatting resulting in substantial bodily harm is assigned SL 3; carries a statutory maximum of imprisonment of not more than three years or to payment of a fine of not more than \$10,000, or both; is on the list eligible for permissive consecutive sentencing (section 6); and is not on the list of severe violent offenses (section 8).

Staff Recommendation: Due to the minimum felony statutory maximum, rank the new felony swatting offense under Minn. Stat. § 609.78, subd. 2c, at SL 1, which is two SLs lower than the existing felony swatting offense resulting in substantial bodily harm. At SL 1, the statutory maximum will be reached at a Criminal History Score (CHS) 2 and exceeded at CHS 3. Staff recommends adding the offense to Appendix 3 which describes offenses with presumptive durations that exceed the statutory maximums and indicate at what CHS they are exceeded. Staff also recommends not adding the offense to the list of severe violent offenses (section 8), consistent with the SL 3 and SL 8 offenses. Strike commas in section 5.B to match the prevailing style.

MSGC staff does not have a recommendation as to whether the offense should be included in section 6, the list of offenses eligible for permissive-consecutive sentencing. The other felony swatting offenses are on the list, but the other felony swatting offenses involve bodily harm, which is hopefully unusual. The sample modifications shown below do not include the offense on the list, but, If the Commission views this as a person offense, it should be included.

Staff recommendations, as applied to the Sentencing Guidelines, are shown below.

Possible modifications to 2023 Minn. Sentencing Guidelines & Commentary, Section 5 and Appendix 3, as follows:

* * *

5.A. Offense Severity Reference Table

Offenses subject to a mandatory life sentence, including first-degree murder and certain sex offenses under Minn. Stat. § 609.3455, subdivision 2, are excluded from the Guidelines by law.

* * *

Severity Level	Offense Title	Statute Number
1	* * *	
	<u>Fictitious Emergency Call (Response to Home of Official)</u>	<u>609.78, subd. 2c</u>
	* * *	

5.B. Severity Level by Statutory Citation

Offenses subject to a mandatory life sentence, including first-degree murder and certain sex offenses under Minn. Stat. § 609.3455, subdivision 2, are excluded from the Guidelines by law.

Statute Number	Offense Title	Severity Level
* * *		
609.78 ₇ subd. 2a(1)	Fictitious Emergency Call (Great Bodily Harm or Death)	8
609.78 subd. 2a(2)	Fictitious Emergency Call (Substantial Bodily Harm)	3
609.78 ₇ subd. 2b(1)	Emergency Telephone Calls and Communications (3rd or Subsequent, Making Calls When No Emergency Exists)	4
609.78 ₇ subd. 2b(2)	Emergency Telephone Calls and Communications (Blocks, Interferes, Prevents Using Multiple Communication Devices or Electronic Means)	5
609.78 subd. 2c	Fictitious Emergency Call (Response to Home of <u>Official</u>)	1
* * *		

Appendix 3. Presumptive Sentence Durations that Exceed the Statutory Maximum Sentence Reference Table

This table is for convenience when determining if a presumptive duration exceeds the statutory maximum sentence as described in section 2.C.2. Offenses identified in the table below have presumptive durations that exceed the statutory maximums at the Criminal History Score (CHS) indicated on the table. These are offenses for which the applicable grid does not adjust the duration or range to be at or below the statutory maximum. The table may not be exhaustive.

Statute	Offense	Severity Level	Statutory Maximum (Months)	Exceeds Statutory Maximum At:
* * *				
609.78 subd. 2c	Fictitious Emergency Call (Response to Home of <u>Official</u>)	1	12	CHS 3

Statute	Offense	Severity Level	Statutory Maximum (Months)	Exceeds Statutory Maximum At:
* * *				

4. Sale of Human Remains – new felony

[2024 Minn. Laws ch. 123, art. 6 § 19.](#)

Description: A new law was enacted under Minn. Stat. § 609.84 (Sale of Human Remains), which prohibits the sale of human remains, including cremated remains, with enumerated exceptions. A violation is a felony.

Effective date: The day following final enactment and applies to crimes committed on or after that date. The act was signed by the Governor May 24, 2024.

Long-Term Fiscal Impact (HF 3490-0): None.

Demographic Impact (HF 3490-0): Not applicable.

Sentencing Guidelines Considerations: The Commission must consider assigning a SL ranking to the new felony offense. Because no statutory maximum is specified for the new felony offense, the five-year default statutory maximum (Minn. Stat. § 609.03, punishment when not otherwise fixed) applies.

There is an existing felony prohibition in Minn. Stat. § 307.08 against damaging or illegally molesting human remains or burial grounds. That offense is ranked at SL 3 (section 5) and has a five-year statutory maximum. The offense is not an offense eligible for permissive consecutive sentencing (section 6) or a severe violent offense (section 8).

Staff Recommendation: Rank the new offense at SL 3 due to the similar subject matter and same statutory maximum as the existing felony prohibition against damaging or molesting human remains or burial grounds under § 307.08.

This recommendation, as applied to the Sentencing Guidelines, are shown below.

Possible modifications to 2023 Minn. Sentencing Guidelines & Commentary, Section 5, as follows:

* * *

5.A. Offense Severity Reference Table

Offenses subject to a mandatory life sentence, including first-degree murder and certain sex offenses under Minn. Stat. § 609.3455, subdivision 2, are excluded from the Guidelines by law.

* * *

Severity Level	Offense Title	Statute Number
3	* * *	
	<u>Sale of Human Remains</u>	<u>609.84</u>
	* * *	

5.B. Severity Level by Statutory Citation

Offenses subject to a mandatory life sentence, including first-degree murder and certain sex offenses under Minn. Stat. § 609.3455, subdivision 2, are excluded from the Guidelines by law.

Statute Number	Offense Title	Severity Level
* * *		
<u>609.84</u>	<u>Sale of Human Remains</u>	<u>3</u>
* * *		

B. Making Conforming Changes to the Sentencing Guidelines

Below are amendments for which conforming changes must be considered.

1. Obscene or Harassing Telephone Calls – Targeted Misdemeanor List

[2024 Minn. Laws ch. 85, § 98.](#)

Description: This law change implements MSGC recommendation number 3 from its 2024 Report to the Legislature.

The law amends the “Targeted Misdemeanor List” in Minn. Stat. § 299C.10, subd. 1(e), to reconcile the citation of the most recent addition to the list to its name. A 2023 change added section “609.749 (obscene or harassing telephone calls)” to the list—but Minn. Stat. § 609.749 contains no misdemeanors, and “obscene or harassing telephone calls” is the name of the offense described in Minn. Stat. § 609.79. The law corrects the citation to § 609.79.

Effective date: The day following enactment. Presented to the Governor April 12, 2024.

References: [2023 Minn. Laws ch. 52, art. 7, § 7](#); [Minn. Stat § 299C.10 \(2023\)](#).

Long-Term Fiscal Impact (H.F. 4483-0): Not requested.

Demographic Impact (H.F. 4483-0): Not applicable.

Sentencing Guidelines Considerations: The Targeted Misdemeanor List is cross-referenced in appendix 4 of the Guidelines. A prior conviction for a targeted misdemeanor is used to increase a person’s criminal history score in two ways: by assigning one-half custody status point under Guidelines sections 2.B.2 (Custody Status at the Time of the Offense); and by assigning one unit (towards one misdemeanor/gross misdemeanor point) under Guidelines section 2.B.3 (Prior Gross Misdemeanors and Misdemeanors). Generally, four units equals one criminal history point.

Staff Recommendations: Add a cross-reference for Minn. Stat. § 609.79 (obscene or harassing telephone calls) to Appendix 4 of the Guidelines.

These recommendations, as applied to the Sentencing Guidelines, are shown below.

Possible modifications to 2023 Minn. Sentencing Guidelines & Commentary, Appendix 4, as follows:

* * *

Appendix 4. Targeted Misdemeanor List

(As provided for in Minn. Stat. § 299C.10, subd. 1(e))

Under Minn. Stat. § 299C.10, subd. 1(e), a targeted misdemeanor is a misdemeanor violation of:

Statute Number	Offense Title
169A.20	Driving While Impaired
518B.01	Order for Protection Violation
609.224	Assault 5th Degree
609.2242	Domestic Assault
609.746	Interference with Privacy
609.748	Harassment or Restraining Order Violation
<u>609.79</u>	<u>Obscene or Harassing Telephone Calls</u>
617.23	Indecent Exposure
629.75	Domestic Abuse No Contact Order Violation

* * *

2. Renaming a felony – Replacing “at Camp Ripley” with “in Hazardous Military Area”

Act: [2024 Minn. Laws ch. 100, § 21.](#)

Description: Minn. Stat. § 609.396 establishes a misdemeanor to enter or be present on the Camp Ripley Military Reservation (near the city of Little Falls in central Minnesota) without permission of the Adjutant General, the administrative head of the Minnesota Department of Military Affairs. The offense is a felony if the trespasser, knowing the risk of death, bodily harm, or serious property damage created thereby, is present in an area posted by order of the Adjutant General as restricted for weapon firing or other hazardous military activity.

With respect to the misdemeanor, the law expands the property covered to include other state and federal military land and buildings. With respect to the felony, the law simply removes the “at the Camp Ripley Military Reservation” limitation. The statutory maximum remains five years’ imprisonment or payment of a fine of not more than \$10,000, or both.

Effective date: The day following enactment. The act was signed by the Governor May 8, 2024.

References: Minn. Stat. § [609.396](#) (2022).

Long-Term Fiscal Impact (H.F. 3454): Fiscal note not requested.

Demographic Impact (H.F. 3454): Not applicable.

Sentencing Guidelines Considerations: The offense is ranked at SL 3; is not on the list eligible for permissive consecutive sentencing (section 6); and is not on the list of severe violent offenses (in section 8). There were no felony cases sentenced from 2011 to 2022.

Staff Recommendation: Maintain SL 3 ranking, retitle the offense accordingly, and strike a comma in section 5.B to match the prevailing style.

These recommendations, as applied to the Sentencing Guidelines, are shown below.

Possible modifications to 2023 Minn. Sentencing Guidelines & Commentary, Section 5, as follows:

* * *

5.A. Offense Severity Reference Table

Offenses subject to a mandatory life sentence, including first-degree murder and certain sex offenses under Minn. Stat. § 609.3455, subdivision 2, are excluded from the Guidelines by law.

* * *

Severity Level	Offense Title	Statute Number
3	* * *	
	Unauthorized Presence at Camp Ripley <u>Camp Ripley</u> in Hazardous Military Area	609.396, subd. 2
	* * *	

5.B. Severity Level by Statutory Citation

Offenses subject to a mandatory life sentence, including first-degree murder and certain sex offenses under Minn. Stat. § 609.3455, subdivision 2, are excluded from the Guidelines by law.

Statute Number	Offense Title	Severity Level
* * *		
609.396, subd. 2	Unauthorized Presence at Camp Ripley <u>Camp Ripley</u> in Hazardous Military Area	3
* * *		